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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,726	11/09/2001	Shaffiq Amin Jaffer	8773	4129
27752	7590	11/04/2003	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER
			1722	
DATE MAILED: 11/04/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/035,726	JAFFER ET AL.
	Examiner	Art Unit
	Joseph S. Del Sole	1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 24 September 2003.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12, 15 and 16 is/are rejected.

7) Claim(s) 13, 14 and 17 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    6) Other:

**DETAILED ACTION**

***Terminal Disclaimer***

1. The terminal disclaimer filed on 9/24/03 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application Number 10/035,720 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 9-12, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill et al (2,803,041).

Hill et al teach a die, that corresponds to the instant die, for extruding flowable material therethrough in a longitudinal direction, the die having at least a first die inlet 16, a second die inlet 24, 26, and a third die inlet 24, 26, each for admitting flowable material into the die and having a first die inlet size, a second die inlet size and a third die inlet size, respectively; a die outlet 22 for expelling flowable material from the die, the die having a cavity 18 longitudinally connecting the first die inlet 16 and the die outlet 22, the first die inlet 16, the second die inlet 24, 26 and the third die inlet 24, 26 each having a spacing from each other; the first, second and third inlets having a difference in the spacing from an adjacent die inlet and being arranged in a plurality of

banks, whereby at least two banks of the plurality have a mutually different number of die inlets; the second die inlet 24, 26 is longitudinally downstream of the first die inlet 16; the die having a plurality of auxiliary inlets 24,26 the plurality of auxiliary inlets 24, 26 being longitudinally downstream of the first die inlet 16 having a first die inlet cross sectional area, the auxiliary inlets 24, 26 having a combined cross sectional area less than the first die inlet cross sectional area (see figs. 1-3); the plurality of auxiliary inlets 24,26 is rectilinearly disposed in a bank, the bank being substantially perpendicular to the longitudinal direction (figs. 1 and 2); the auxiliary inlets 24, 26 are unequally spaced from each other in the depth direction (col. lines 21-25; figs. 1 and 2); the die including a first bank of auxiliary inlets 24, 26 and at least a second bank of auxiliary inlets 24, 26, the first bank and the second bank being longitudinally spaced apart from each other (figs. 1 and 2); insert tubes 26 extend from the auxiliary inlets 24 to the cavity 18; each insert tube 26 having a distal end, the distal ends of the insert tubes 26 being staggered in the longitudinal direction (figs. 1 and 2); the die having a cross direction orthogonal to the longitudinal direction and a plurality of insert tubes 26, each insert tube 26 having a distal end, the distal ends of the insert tubes 26 being staggered in the cross direction (figs. 1 and 2); the inlet tubes 26 define a plurality of bars which act as a static mixer directing flow in a cross direction.

The limitation "said insert tube admitting energy to the die cavity, without admitting additional material to said die cavity" is a process limitation that does not further structurally limit the claimed invention. This limitation is dependent on how the apparatus is operated, not on how it is structurally constructed.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill et al (2,803,041).

Hill et al disclose the die substantially as claimed as mentioned above, except for the first plurality of auxiliary inlets including a first number of auxiliary inlets and the second plurality of auxiliary inlets including a second number of auxiliary inlets, the first number of auxiliary inlets being different than the second number of auxiliary inlets; or for the first plurality of auxiliary inlets including auxiliary inlets having a first size and the second plurality of auxiliary inlets including auxiliary inlets having a second size, the first size of the first plurality of auxiliary inlets being different than the second size of the second plurality of auxiliary inlets.

However, Hill et al disclose that the auxiliary inlets 26 are spaced, shaped and sized depending on the desired ornamental effect (col. lines 14-53; col. 3, lines 17-63), i.e., the spacing (which affects the number of inlets), shape and size of the second material 39 in the first material 38.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the first plurality of auxiliary inlets to include a first number of auxiliary inlets and the second plurality of auxiliary inlets to include a second number of auxiliary inlets, the first number of auxiliary inlets being different than the second number of auxiliary inlets; or to modify the first plurality of auxiliary inlets to include auxiliary inlets having a first size and the second plurality of auxiliary inlets to include a second size, the first size of the first plurality of auxiliary inlets being different than the second size of the second plurality of auxiliary inlets, because such modifications would have been found depending upon the desired ornamental effect in view of the teachings of Hill et al.

***Response to Arguments***

8. Applicant's arguments filed 9/24/03 have been fully considered but they are not persuasive.

The Applicant argues that claim 1 is different from the apparatus as taught by Hill because claim 1 recites inlets with differential inlet sizing.

The Examiner disagrees. As claimed, "a first die inlet size", "a second die inlet size" and "a third die inlet size" may all be the same size dimensionally. Furthermore, as claimed in lines 9-10 of claim, the inlets must have a difference in "at least one of" three properties; sizing is only one of these.

The Applicant argues that claim 1 recites inlets being arranged in plural banks wherein different banks have mutually different numbers of inlets and that this is not taught by Hill.

The Examiner disagrees. Hill does teach a plurality of banks, one bank includes all of the inlets designated 24, 26 and the other bank includes the inlet designated 16.

The Applicant argues that claim 1 recites inlets having differential spacings from adjacent inlets.

The Examiner disagrees. Hill shows that the spacing between inlet 24, 26 and inlet 16 is different from the spacing between 24, 26 and a second inlet 24, 26 both spacings are different from the spacing between 16 and the second inlet 24, 26.

The Applicant argues that claim 10 has been amended to require the insert tubes to admit energy to the die cavity and that this amendment distinguishes the claim from the prior art.

The Examiner disagrees. As stated above, the limitation added to claim 10 is a process limitation.

***Allowable Subject Matter***

9. Claims 13, 14 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest a die having insert tubes with a window, the window being substantially transparent to the transmission of energy therethrough and fails to teach the bar admitting actinic radiation to the cavity of the die.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Joseph S. Del Sole*

J.S.D.  
October 28, 2003

*Robert Davis*  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300-1700

10/30/03